

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X Docket No.: 2:18-cv-03099-DRH-GRB

**D.W.M.**, a minor by Willie Moore, his father, and  
Ursula Moore, his mother, **D.D.M.**, a minor by  
Willie Moore, his father, and Ursula Moore, his mother,  
and **WILLIE MOORE** and **URSULA MOORE**,

Plaintiffs,

**ANSWER OF INFANT M.M.**

-against-

**ST. MARY SCHOOL**,  
**BIAGIO M. ARPINO**, *Principal of St. Mary School*,  
and **THE ROMAN CATHOLIC DIOCESE OF**  
**ROCKVILLE CENTRE**,

**KERRI LECHTRECKER**, individually and as the mother  
of **L.M.**, an infant, "**MIKE**" **JONES** and  
**CHRISTINE JONES**, individually  
and as parents and natural guardians of **M.J.**, an infant;  
and **KRZYSZTOF MARS** and **DOROTA MARS**. Individually  
and as the parents and natural guardians of **M.M.**, an infant,

Defendants.

-----X

Defendant, infant, M.M. by and through his Parent and Natural Guardians KRZYSZTOF  
MARS and DOROTA MARS, appears, through his attorneys, TIERNEY & TIERNEY, ESQS.,  
and answers the Fifth Amended Complaint as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth or falsity  
of the allegations in paragraphs 1-19, paragraphs 21-24, paragraph 28, except admits that  
Plaintiff D.W.M. is African American, paragraphs 29, paragraphs 30, except admits that Plaintiff  
D.D.M. is African American, paragraph 31, paragraph 32, except admits that Plaintiff Ursula  
Moore is African American, paragraph 33, except admits that Plaintiff Willie Moore is African  
American, paragraphs 34-61, paragraphs 62, 63, 66, 68, 69, 70, and 71 paragraphs 73-76, except  
denies that M.M. re-posted any images to his channel and one or more other channels,

paragraphs 77- 89, paragraphs 92, 93, 95, 96, paragraphs 98-104, paragraphs 106, and 108 paragraphs 111-136, paragraphs 139-276, paragraphs 286-295 admits that any documents referenced therein speak for themselves, and otherwise refers all questions of law or fact to trial of this matter.

2. Admits paragraph 20.
3. Admits paragraph 25.
4. Admits paragraph 26.
5. Does not contest venue (paragraph 27) or jurisdiction, which has already been determined by Order of this Court dated, August 27, 2019.
6. Denies paragraphs 64, 65, 72, 90, 91, 94, 97, 103, 105, 107, 109, 137, 138, to the extent it can be construed to set forth an allegation against answering Defendant, paragraph 110, paragraphs 277-282, paragraphs 283, 284, 285.

#### **RESPONSE TO THE FIRST CAUSE OF ACTION**

7. Dismissed by Memorandum and Order dated August 27, 2019.

#### **RESPONSE TO THE SECOND CAUSE OF ACTION**

8. Dismissed by Memorandum and Order dated August 27, 2019.

#### **RESPONSE TO THIRD CAUSE OF ACTION**

9. Dismissed by Memorandum and Order dated August 27, 2019.

#### **RESPONSE TO FOURTH CAUSE OF ACTION**

10. Dismissed by Memorandum and Order dated August 27, 2019.

#### **RESPONSE TO FIFTH CAUSE OF ACTION**

11. Deny the allegations, deny the allegations as inapplicable to answering Defendant, and refer all questions of fact and law to trial of this matter.

**RESPONSE TO SIXTH CAUSE OF ACTION**

12. Deny the allegations, deny the allegations as inapplicable to answering Defendant, and refer all questions of fact and law to trial of this matter.

**RESPONSE TO SEVENTH CAUSE OF ACTION**

13. Deny the allegations, and refer all questions of fact and law to trial of this matter.

**RESPONSE TO EIGHTH CAUSE OF ACTION**

14. Dismissed as against answering Defendant by Memorandum and Order dated August 27, 2019.

**RESPONSE TO NINTH CAUSE OF ACTION**

15. Dismissed by Memorandum and Order dated August 27, 2019.

**RESPONSE TO TENTH CAUSE OF ACTION**

16. Deny the allegations, deny the allegations as inapplicable to answering Defendant, and refer all questions of fact and law to trial of this matter.

**FIRST AFFIRMATIVE DEFENSE**

17. What remains of the Fifth Amended Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

18. Plaintiffs have failed to establish that they suffered any damages whatsoever.

**THIRD AFFIRMATIVE DEFENSE**

19. The Complaint fails to comply with the pleadings requirements of Rule 8 and is therefore a nullity.

**FOURTH AFFIRMATIVE DEFENSE**

20. The Plaintiffs are barred by one or more applicable statute of limitations.

**FIFTH AFFIRMATIVE DEFENSE**

21. The Plaintiffs have not pleaded a cognizable tort in the State of New York and therefore cannot recover under any theory of law.

**SIXTH AFFIRMATIVE DEFENSE**

22. The Plaintiffs' claims are barred by the doctrine of waiver and/or estoppel.

**SEVENTH AFFIRMATIVE DEFENSE**

23. The Plaintiffs have failed to mitigate any alleged damages.

**EIGHTH AFFIRMATIVE DEFENSE**

24. The Plaintiffs' claims are barred by the doctrine of contributory negligence.

**NINTH AFFIRMATIVE DEFENSE**


25. The Plaintiffs cannot establish one or more necessary elements to support a cause of action for Intentional Infliction of Emotional Distress.

**WHEREFORE**, the answering Defendant demands that the sole remaining claim against him be dismissed, with prejudice, and for such other relief as the Court deems just and proper, including awarding Defendant costs of this action, plus reasonable attorneys' fees.

Dated: September 10, 2019  
Port Jefferson Station, New York

Yours , etc.

TIERNEY & TIERNEY, ESQS.

  
STEPHEN A. RULAND, ESQ. (SR-2832)  
409 Route 112  
Port Jefferson Station, New York 11776  
[Stephen.ruland@tierneylaw.net](mailto:Stephen.ruland@tierneylaw.net)  
(631) 928-1444  
Attorneys for Defendant  
**KRZYSZTOF MARS** and **DOROTA MARS**. Individually and as the parents and natural guardians of **M.M.**, an infant

To: Clerk of the Court  
All parties Via ECF

**LAW OFFICES OF CORY H. MORRIS**

Attorneys for Plaintiff

**D.W.M.**, a minor by Willie Moore, his father, and Ursula Moore, his mother, **D.D.M.**, a minor by Willie Moore, his father, and Ursula Moore, his mother, and **WILLIE MOORE** and **URSULA MOORE**  
33 Walt Whitman Road – Suite 310  
Dix Hills, New York 11746

**Yannacone & Yannacone, P.C.**  
**Victor John Yannacone, Jr., Esq.**  
P.O. Box 109  
Patchogue, New York 11772

**JOSEPH M. NADER, ESQ.**  
**PATRICK F. ADAMS, P.C.**  
Attorneys for Defendant  
**ST. MARY SCHOOL,**  
**BIAGIO M. ARPINO**, *Principal of St. Mary School*,  
and **THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTER,**  
3500 Sunrise Highway – Building 300  
Great River, New York 11739

**VESSELIN MITEV, ESQ.**  
**RAY, MITEV AND ASSOCIATES, LLP**  
Attorneys for Defendant  
**KERRI LECHTRECKER**, individually and as the mother  
of **L.M.**, an infant  
122 North Country Road  
Miller Place, New York 11764

**CHRISTOPHER MESTECKY, ESQ.**  
**ANTHONY J. FASANO, JR., ESQ.**  
**GUERCIO AND GUERCIO**  
Attorneys for Defendant  
**“MIKE” JONES** and **CHRISTINE JONES**, individually  
and as parents and natural guardians of **M.J.**, an infant  
77 Conklin Street  
Farmingdale, New York 11753

**CERTIFICATE OF SERVICE**

The undersigned, an attorney of record herein, hereby certifies that on September 10, 2019, the forgoing **Answer of Infant, M.M.**, was served First-Class U.S. Mail and via ECF to the following persons:

TO: **LAW OFFICES OF CORY H. MORRIS**

Attorneys for Plaintiff

**D.W.M.**, a minor by Willie Moore, his father, and Ursula Moore, his mother, **D.D.M.**, a minor by Willie Moore, his father, and Ursula Moore, his mother, and **WILLIE MOORE** and **URSULA MOORE**  
33 Walt Whitman Road – Suite 310  
Dix Hills, New York 11746

**Yannacone & Yannacone, P.C.**

**Victor John Yannacone, Jr., Esq.**

P.O. Box 109

Patchogue, New York 11772

**JOSEPH M. NADER, ESQ.**

**PATRICK F. ADAMS, P.C.**

Attorneys for Defendant

**ST. MARY SCHOOL,**

**BIAGIO M. ARPINO**, *Principal of St. Mary School*,

and **THE ROMAN CATHOLIC DIOCESE OF**

**ROCKVILLE CENTER,**

3500 Sunrise Highway – Building 300

Great River, New York 11739

**VESSELIN MITEV, ESQ.**

**RAY, MITEV AND ASSOCIATES, LLP**

Attorneys for Defendant

**KERRI LECHTRECKER**, individually and as the mother of **L.M.**, an infant

122 North Country Road

Miller Place, New York 11764

**CHRISTOPHER MESTECKY, ESQ.**

**ANTHONY J. FASANO, JR., ESQ.**

**GUERCIO AND GUERCIO**

Attorneys for Defendant

**"MIKE" JONES** and **CHRISTINE JONES**, individually

and as parents and natural guardians of **M.J.**, an infant

77 Conklin Street

Farmingdale, New York 11753



---

STEPHEN A. RULAND, ESQ. (sr-2832)

TIERNEY and TIERNEY, ESQS.

Attorneys for Defendant

**KRZYSZTOF MARS** and **DOROTA**

**MARS**. Individually and as the parents and  
natural guardians of **M.M.**, an infant

409 Route 112

Port Jefferson Station, New York 11776

[Stephen.ruland@tierneylaw.net](mailto:Stephen.ruland@tierneylaw.net)

(631) 928-1444



Docket No.: 2:18-cv-03099-DRH-GRB  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Year 20

**D.W.M.**, a minor by Willie Moore, his father, and  
Ursula Moore, his mother, **D.D.M.**, a minor by  
Willie Moore, his father, and Ursula Moore, his mother,  
and **WILLIE MOORE** and **URSULA MOORE**,  
Plaintiffs,

-against-

**ST. MARY SCHOOL**,  
**BIAGIO M. ARPINO**, *Principal of St. Mary School*,  
and **THE ROMAN CATHOLIC DIOCESE OF  
ROCKVILLE CENTER**,  
**KERRI LECHTRECKER**, individually and as the mother  
Of **L.M.**, and infant, and **E.G.M.** (initials by Order of the Court),  
Individually and as the father of **L.M.**, an infant;  
"**MIKE**" **JONES** and **CHRISTINE JONES**, individually  
and as parents and natural guardians of **M.J.**, an infant;  
and **KRZYSZTOF MARS** and **DOROTA MARS**. Individually  
and as the parents and natural guardians of **M.M.**, an infant,  
Defendants.

**ANSWER OF INFANT M.M.**

**Tierney & Tierney, Esqs.**  
**Attorneys for Defendant**  
**409 Route 112**  
**Port Jefferson Station, New York 11776**  
**(631) 928-1444**

TO:  
Attorney(s) for

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document(s) are not frivolous. September 10, 2019

STEPHEN A. RULAND, ESQ. (SR2832)

Service of a copy of the within \_\_\_\_\_ is hereby admitted.  
Dated: \_\_\_\_\_

Attorney(s) for

**PLEASE TAKE NOTICE**

**Notice of Entry** [ ] that the within is a (certified) true copy of a \_\_\_\_\_ entered in the office of the Clerk of the within named Court on \_\_\_\_\_, 20 \_\_\_\_\_.

**Notice of Settlement** [ ] that an Order of which the within is a true copy will be presented for settlement to the Hon. \_\_\_\_\_, one of the judges of the within named Court, on \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.

Dated: \_\_\_\_\_

**Tierney & Tierney, Esqs.**  
**Attorneys for Defendant**  
**409 Route 112**

**Port Jefferson Station, New York 11776**

TO: